

**STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
BOARD OF REGISTERED NURSING MINUTES**

DRAFT

DATE: November 21, 2008

TIME: 9:00 am Both Days

LOCATION: The Westin Los Angeles Airport
5400 West Century Boulevard
Los Angeles, CA 90045
310-216-5858 (phone) – 310-417-4545 (fax)

PRESENT: LaFrancine Tate, Public Member, President
Susanne Phillips, MSN, RN, APRN-BC, FNP, Vice-President
Andrea Guillen Dutton, Public Member
Elizabeth O. Dietz, Ed.D., RN, CS-NP
Janice Glaab, Public Member
Nancy L. Beecham, RNC, BS (left at 10:30 am 11/21)
Dian Harrison, Public Member

ALSO PRESENT: Ruth Ann Terry, MPH, RN, Executive Officer
Heidi Goodman, Assistant Executive Officer
Louisa Gomez, Manager, Licensing Standards & Evaluation
Carol Stanford, Diversion/Probation Manager
Stacie Berumen, Enforcement Program Manager
Christina Sprigg, Administration Manager
Louise Bailey, Supervising NEC
Katie Daugherty, NEC
Janette Wackerly, NEC
Geri Nibbs, NEC
Miyo Minato, NEC
Badrieh Caraway, NEC
Maria Bedroni, Supervising NEC
Humberto Flores, Administrative Law Judge
Linda Sun, Deputy Attorney General
Alvaro Mejia, Deputy Attorney General
Norine Marks, DCA, Legal Counsel
Kimberly Ott, Enforcement Program
Alcidia Valim, Recorder

Thursday, November 20, 2008

1.0 CALL TO ORDER

L. Tate, Board President, called the meeting to order at 9:00 am and had the Board Members introduce themselves. The Board welcomed students from El Camino College, Golden West College, Los Angeles Community College.

2.0 DISCIPLINARY MATTERS

The Board convened in closed session pursuant to Government Code Section 11126(c)(3) to deliberate on these matters and other disciplinary matters including stipulations and proposed decisions, and pursuant to Government Code Section 11126(e)(1, 2(A)) to confer with Legal Counsel regarding pending litigation.

Reinstatement:

Julia Bernard	DENIED
Wendi Evans	GRANTED - 3 years probation
Mary Raibley	DENIED
Bruce Smith	GRANTED - 2 years probation
Germaine Velasquez	DENIED

Termination of Probation:

Aida Cruz	DENIED
Wilbert T. Ordanza	DENIED
Kam Ho	GRANTED

Closed Session Discussion Items

L. Tate, Board President, called the closed session meeting to order at 12:30. The closed session adjourned at 2:45.

Friday, November 21, 2008

L. Tate, Board President, called the meeting to order at 9:00 am and had the Board Members introduce themselves and also introduced new Board Member, Dian Harrison. The Board welcomed students from Biola University and Touro University of Nevada.

3.0 OPEN FORUM

Trish Hunter and Hedy Dumble came forward with a comment.

4.0 APPROVE/NOT APPROVE MINUTES OF:

- **September 18-19, 2008, Board Meeting**
- **October 23, 2008, Board Meeting**

MSC: Dietz/Phillips that the Board approve minutes from September 18-19, 2008. 7/0/0

MSC: Phillips/Dietz that the Board approve minutes from October 23, 2008. 7/0/0

5.0 REPORT ON BOARD MEMBERS' ACTIVITIES

F. Tate attended Magic in Teaching Institute III & Annual Clinical Simulation Conference in Northern California on November 13-14, 2008. F. Tate, J. Glaab, and L. Dietz attended DCA Pact Summit conferences on November 19, 2008. S. Phillips was a speaker at the Summit for Public Safety/Protection and presented information from the BRN on "Insuring Workforce is Consumer Protection".

6.0 EXECUTIVE OFFICERS' REPORT ON BOARD AND DEPARTMENT ACTIVITIES

R. Terry presented this report

1.0 Board's Budget Update

Budget Change Proposal (BCP) – The Department of Consumer Affairs (DCA) has worked in conjunction with the healing arts boards to develop a comprehensive BCP for FY 2009/10 and on-going to support that all licensees are fingerprinted and any outstanding criminal history revealed is addressed through the administrative disciplinary process. As you are aware, the Board has added a conviction question on all renewal notices and has submitted an emergency regulation requiring all non-fingerprinted RNs to be fingerprinted at the time of license renewal, which is to begin March 1, 2009, if approved.

The BCP is requesting a special fund augmentation for the BRN for 12 additional PYs and to increase the Division of Investigation, Attorney General and the Office of Administrative Hearings budgets. The anticipated total cost of this program will be: FY 2008/09 \$594,000; FY 2009/10 \$ 2.4 million; FY 2010/11 and on-going \$2.3 million. The Board will absorb all start-up costs associated with the new requirement this fiscal year and will be required to absorb \$500,000 of the total cost each subsequent fiscal year.

Fund Condition/Fee Increase – As we have previously discussed, it is anticipated in FY 2011/12 the Board will begin the regulatory process for a fee increase that will take effect in FY 2012/13. Currently all the Board's fees are at the statutory minimum and the Board has not had a major fee increase since the early 1990's.

Attorney General Fee Increase – Effective July 1, 2009, the Attorney General's legal services hourly billing rate will increase. The deputy attorney general's fee will increase from \$158 per hour to \$170 per hour and the paralegal services fee will increase from \$101 per hour to \$120 per hour. An adjustment will be made to the Board's budget for FY 2009/10 to augment this increase.

2.0 Department of Consumer Affairs (DCA) Updates

Board Member Orientation – In accordance with Business and Professions Code Section 453, Board Members are required to attend DCA's Board Member Orientation within one year of their appointment. Please notify the Administration Unit if you would like to attend.

Executive Order S-09-08 - The Executive Order remains in effect through June 30, 2009; however, the Governor's Office has provided alternative methods of compliance. Since DCA is a non-general fund agency it has been delegated the authority to:

- Resume hiring, transfers, and promotions of employees
- Bring back retired annuitants, permanent intermittent, seasonal, temp help, and student assistants
- Authorize overtime
- Restore suspended contracts

The Board no longer needs to submit exemption requests to DCA for the above items. Additionally, the Board has authority to initiate personnel transactions and contracts. However, since the Executive Order is still in effect, the Board will prioritize expenditures and focus on mission-critical services.

Security Kiosk – On November 3rd, the security kiosk became operational in the main lobby of DCA's headquarters building. A security guard is stationed at the kiosk counter during business hours to sign in visitors and direct them to their DCA destinations. In

addition, the security guard will also do a visual check to ensure that DCA employees have their identification card visible, and will be monitoring the parking lot security cameras. A second security guard monitors the parking lot during and after business hours.

Employee Appreciation and Customer Service Program Kick-Off – On October 7, 2008, Director Carrie Lopez invited all DCA’s employees to a noon time event at DCA headquarters that included lunch and entertainment to kick-off “Sailing the Seven Cs of Customer Service”. DCA’s Executive Office and the Customer Service Improvement Project Team recently launched DCA’s new customer service campaign that includes: committed, courteous, clear, correct, complete, concise, concerned.

3.0 Public Record Request

The Board continues to comply with public record request and responds within the required timeframes that are set in Government Code Section 6250. For the period of September 5, 2008 through November 10, 2008, the Board has received and processed 28 public record requests.

4.0 National Council State Boards of Nursing (NCSBN)

Uniform Core Licensure Requirements (UCLR) Conference - On November 5-6, 2008, the Board participated in this conference that focused on uniformity and portability of nurse licensure throughout the United States and U.S. territories. A representative from the National Governors Association provided an update on E-Health Alliance’s Interstate Licensing Recommendations to the States that included telehealth practice across state lines and establish core credentialing requirements, that includes criminal background checks at the state and federal level. The 2008 Delegate Assembly adopted a resolution to review the UCLR's for currency and relevance in today’s regulatory arena and the findings on these issues will be presented at the 2009 Delegate Assembly in Philadelphia, PA.

5.0 Magic in Teaching Institute III & 2nd Annual Clinical Simulation Conference, Northern CA

On November 13-14, 2008, the BRN in conjunction with the California Institute of Nursing and Healthcare presented “Redesigning Nursing Education in the 21st Century”. The goal of the conference was to provide an opportunity for nurse educators from academia and clinical settings to learn together and share ideas for designing and creating optimal learning experiences based on evidenced-based practices. The second day focused on integrating simulations into nursing curricula and nursing practice. There were 275 attendees representing 40 California nursing programs and 20 clinical facilities. The same conference will be held in Southern California, March 11-12, 2009.

6.0 Personnel

The following personnel changes have transpired since the last Board Meeting:

New Hires	Classification	Board Program
Julie Campbell-Warnock	Research Program Specialist	Administration

7.0 REPORT OF THE ADMINISTRATIVE COMMITTEE

L. Tate, Chairperson

7.1 Information Only: Presentation of findings for The Movement of RNs into and out of California, a report by UCSF Center for California Health Workforce Studies

R. Terry presented this report

In an effort to better understand the movement of nurses into and out of California, the California Board of Registered Nursing contracted with the University of California, San Francisco, Center for California Health Workforce Studies to conduct a comprehensive survey of nurses who requested endorsement of their nursing licenses into and out of California between August, 2007 and January, 2008.

Dr. Joanne Spetz, Ph.D., Associate Professor in the School of Nursing and Associate Director for the Center for California Health Workforce Studies, University of California, San Francisco and Ms. Renae Waneka, Research Analyst and lead on this project presented a summary of the survey findings to the Board today.

7.2 Information Only: Appointment of Nomination Committee

R. Terry presented this report

Nominations and Elections:

A nomination is the formal presentation to the Board of the name of a member as a candidate for a particular office. Nominations from the floor are always permitted even if the initial nominations are made by a nominating committee or in another fashion.

Nominations do not require seconds.

Board Members who are interested in serving as officers should submit a letter of interest to the chair of the Nominating Committee by the date requested by the committee. Andrea Guillen Dutton is the chair and Nancy Beecham is co-chair. Nominations were due by January 17, 2009.

7.2 Information Only: Update on Emergency Regulations Concerning Fingerprinting

R. Terry presented this report

The Fingerprinting Regulation Package is in process. The anticipated processing timeline is as follows:

November 3, 2008	Notice sent to stakeholders announcing the emergency regulation.
November 12, 2008	Final approved package sent to OAL.
November 26, 2008	OAL decision (10 working days).
November 26, 2008	If OAL approves emergency regulation; it will be effective this day.
End of May 2009	The Board has 180 days for the normal regulation process that must be completed by this date.

8.0 REPORT OF THE LEGISLATIVE COMMITTEE

L. Tate, Chairperson

8.1 Information Only: Update on Bills of Interest to the Board

L. Bailey presented this report

AB 211 Jones: California Department of Public Health

Support – Chaptered 602

AB 994 Parra: Health Care: Nurse training scholarship pilot program

Support – Chaptered 602

AB 1605 Lieber: California Conference of Local Health Dept

Support – Vetoed

AB 2637 Eng: California Dental Association

Oppose – Chaptered 499

AB 2649 Ma: Neuropathy Foundation

Support – Vetoed

SB 1393 Scott: Nursing Programs

Support – Chaptered 175

SB 1441 Ridley-Thomas: Healing Arts Practitioners: Alcohol and Drug Abuse

Support – Chaptered 283

SB 1621 Ashburn: Nursing Education

Support – Chaptered 602

SB 1779 Committee on Business, Professions and Economic Development: Healing Arts

Support – Vetoed

9.0 REPORT OF THE DIVERSION/DISCIPLINE COMMITTEE

A. Dutton, Chairperson

9.1 Information Only: Enforcement Program Update and Statistics

S. Berumen presented this report

PROGRAM UPDATE: The board is in the process of adding the conviction question to the renewal form which will ask licensees whether or not they have been convicted of a crime since the last time they renewed their license. The board's request was submitted to the department in mid-August and it is anticipated the requested changes will be implemented with the renewal forms mailed out the end of October 2008 for licenses that were due to expire January 2009.

It is uncertain how many additional complaints will result by asking this question but it is anticipated that this could significantly increase the workload in Enforcement.

STATISTICS: A copy of the Enforcement Program statistics for the first quarter of the fiscal year (July through September 2008) was provided for review.

Early projections show that the number of complaints received could be the highest the board has ever received at 4,304 which is 10% higher than last year's record number of 3,900.

The number of citations issued is projected to increase by over 71% from last year due to licensees who have not complied with their continuing education audit requirement for license renewal. Additionally, citations could increase for those renewal applicants who fail to disclose a conviction on their application; but their conviction does not rise to the level of pursuing disciplinary action. It should be noted that this increase may be far greater than we are projecting as this is only the first quarter of the fiscal year.

9.2 Information Only: Diversion Program Update and Statistics

C. Stanford presented this report

PROGRAM UPDATE: The Diversion Program Manager assisted with amendments to SB 1441 regarding the Diversion Program that was signed into law by the Governor on September 28, 2008. In 2009 the Department of Consumer Affairs will develop a Substance Abuse Coordination Committee that will formulate uniform and specific standards for managing substance-abusing licensees. It also requires that all of the Diversion Programs be audited by 2010.

CONTRACT UPDATE: On October 3, 2008, a hearing was held in the Superior Court of Sacramento regarding a tentative ruling on the Petition for Writ of Mandate filed by Compass Vision protesting the award of the Diversion Program contract to Maximus. The outcome from the hearing is pending.

DIVERSION EVALUATION COMMITTEES (DEC): There are currently six vacancies as follows: five physicians, and one registered nurse. Recruitment efforts continue.

STATISTICS: A copy of the Monthly Statistical Summary Report for July and August 2008 was provided for review. As of August 31, 2008 there were 1,335 successful completions in the Diversion Program.

9.3 Information Only: Probation Program Update and Statistics

C. Stanford presented this report

PROGRAM UPDATE: The BRN has had to monitor over 470 in-state probationers with only four probation monitors. There are also an additional 167 probationers living out-of-state whose cases are currently tolled. The addition of another probation monitor will help alleviate some of the caseload of the other monitors in the program.

Of the in-state cases being monitored, 84 of the probation cases are currently referred to the Attorney General's Office for additional disciplinary actions and 36 have been disciplined since January 2008.

STATISTICS: Below are the current statistics for the Probation Program through October 6, 2008.

MALE	120
FEMALE	357
CHEMICAL DEPENDENCY CASES	266
PRACTICE CASES	160
SOUTHERN CALIFORNIA	242
NORTHERN CALIFORNIA	235
PENDING AT THE AG	84
ADVANCED CERTIFICATES	38
REVOKED OR SURRENDERS (July – Oct. 6, 2008)	12
TOTAL IN-STATE PROBATIONERS	477

9.4 Diversion Evaluation Committee: (a) Approve/Not Approve: Diversion Evaluation Committee Member Appointment/Transfer; (b) Information Only: Diversion Evaluation Committee Member Resignation

C. Stanford presented this report

In accordance with Business and Professions Code Section 2770.2, the Board of Registered Nursing is responsible for appointing persons to serve on the Diversion Evaluation Committees (DEC). Each DEC is composed of three registered nurses, a physician and a public member with expertise in chemical dependency and/or mental health.

(a) APPROVE/NOT APPROVE: Diversion Evaluation Committee Member Appointment/Transfer

Committee Member Appointment:

<u>NAME</u>	<u>TITLE</u>	<u>DEC</u>	<u>NO</u>
Frank Hall	Nurse	North Coast	11

Diversion Evaluation Committee Member Transfer:

<u>NAME</u>	<u>TITLE</u>	<u>DEC</u>	<u>NO</u>
Deborah Steele	Nurse	Fresno	5

(b) INFORMATION ONLY: Diversion Evaluation Committee Member Resignation

<u>NAME</u>	<u>TITLE</u>	<u>DEC</u>	<u>NO</u>
Raymond Jones	Nurse	North Coast	11

(a) MSC: Dietz/Phillips that the Board approve Diversion Evaluation Committee Member Appointment. 7/0/0

MSC: Phillips/Dietz that the Board approve Diversion Evaluation Committee Member Transfer. 7/0/0

10.0 REPORT OF THE EDUCATION/LICENSING COMMITTEE

E. Dietz, Chairperson

10.1 Ratify Minor Curriculum Revisions

M. Minato presented this report

According to Board policy, Nursing Education Consultants may approve minor curriculum changes that do not significantly alter philosophy, objectives, or content. Approvals must be reported to the Education/Licensing Committee and the Board.

Minor Curriculum revisions include the following categories:

- Curriculum changes
- Work Study programs
- Preceptor programs
- Public Health Nurse (PHN) certificate programs
- Progress reports that are not related to continuing approval
- Approved Nurse Practitioner program adding a category of specialization

The following programs have submitted minor curriculum revisions that have been approved by the NECs:

- California State University, Bakersfield, Baccalaureate Degree Nursing Program
- California State University, Channel Islands, Baccalaureate Degree Nursing Program
- California State University, Stanislaus, Baccalaureate Degree Nursing Program
- University of California, Los Angeles, Baccalaureate Degree Nursing Program, and Entry Level Master's Degree Option
- University of San Francisco, Baccalaureate Degree Nursing Program and Entry Level Master's Degree Option
- Butte College Associate Degree Nursing Program
- Golden West College Associate Degree Nursing Program
- Modesto Junior College Associate Degree Nursing Program

Progress report on the following programs by the NECs have been made:

- California State University, Channel Islands, Baccalaureate Degree Nursing Program
- Concordia University, Irvine, Accelerated Baccalaureate Degree Nursing Program
- College of the Siskiyous, LVN to RN Associate Degree Nursing Program
- San Joaquin Valley College LVN to RN Associate Degree Nursing Program

MSC: Phillips/Harrison that the Board Ratify Minor Curriculum Revisions. 7/0/0

10.2 Approve/Not Approve: Education/Licensing Committee Recommendations

M. Minato presented this report

The Education/Licensing Committee met on October 16, 2008 and makes the following recommendations.

A. Continue Approval of Nursing Program

- National University Baccalaureate Degree Nursing Program
- Fresno City College Associate Degree Nursing Program
- Mendocino College Associate Degree Nursing Program

B. Approve Major Curriculum Revision

- Los Angeles County College of Nursing and Allied Health Associate Degree Nursing Program

MSC: Phillips/Dutton that Board approve Education/Licensing Committee Recommendations. 7/0/0

10.3 Accept/Not Accept Feasibility study for Concorde Career College North Hollywood (CCCNH) Associate Degree Nursing Program.

M. Minato presented this report

BACKGROUND:

Concorde Career College of North Hollywood submitted the first version of the feasibility study July 2007. A detailed letter was sent to the program indicating the areas that needed

further clarification. The second revised revision was presented to the ELC last March 2008. At the time the, the ELC deferred action. This last revision was submitted August 2008.

CCCNH is a privately owned institution, for profit, located in North Hollywood and serving other surrounding cities of Los Angeles County. The college consists of 30,000 square foot building. There are three computer labs. There are apparently sufficient spaces allocated for the director, secretary, skills lab and students. Other resources such as a library are available to students.

CCCNH is accredited by the Accrediting Commission of Career Schools and Colleges of Technology (ACCSCT).

Concorde had approval from the Bureau of Private Post Secondary and Vocational Education (BPPVE). However, this agency is no longer in existence, and therefore, this institution does not currently have the ability grant degrees.

The program has reconsidered the service area to a 25-mile radius from the school and identified 47 vocational programs, 14 associate career programs and four BSN programs within this 25- mile radius.

In preparation for this program CCCNH conducted their own feasibility study. The summary statement of that document clearly stated that only five of the 12 acute hospitals expressed their openness to discuss placement of students in their clinical area. It, also, stated that there are limiting numbers of clinical slots in acute care hospitals in the area.

CCCNH proposes an Associate Degree Nursing Program of one year and two months. They called it the "Generic Option". This option will have 60 weeks in length, consisting of six (6) ten (10) weeks terms. The program will have 75.5 units. Twenty one (21) semester units of nursing theory and eighteen (18) semester units for clinical.

There is also a "Bridge Option" with 77.5 semester units. LVNs entering this program will be given for thirteen units for LVN licensure and their education. The curriculum does not have all the required subject matter. Currently the program has completed an articulation agreement with a private university, University of Phoenix, for transferability of units.

Concorde proposes to admit the first cohort of 30 students in the first quarter of 2009. Therefore, the program will enroll 60 students per year. The program plans to recruit faculty as the curriculum is developed and to have a ratio of **15** students/per faculty

CCCNH has allocated \$325,000 for start up cost of the proposed program and the Hollywood campus in addition to the parent corporation state that they will be able to support this new program.

The major areas of concern for this proposed program are: their ability to grant degrees, clinical placement, resources, faculty recruitment, proposed curriculum and transferability of units and accreditation.

MSC: Phillips/Dutton that the Board Not Accept Feasibility Study for Concorde Career College North Hollywood (CCCNH) Associate Degree Nursing Program. 7/0/0

10.4 Information Only: NCLEX Pass Rate Update

K. Daugherty presented this report

The Board of Registered Nursing receives quarterly reports from the National Council of State Boards of Nursing (NCSBN) about the NCLEX-RN test results by quarter and with an annual perspective. The following tables show this information for 12 months and by each quarter.

NCLEX RESULTS – FIRST TIME CANDIDATES

JURISDICTION	TOTAL TAKING TEST	PERCENT PASSED %
California	9,660	87.22
United States and Territories	128,288	86.67

October 1, 2007 -September 30, 2008

CALIFORNIA NCLEX RESULTS – FIRST TIME CANDIDATES

By Quarters and Year October 1, 2007 – September 30, 2008

10/01/07- 12/31/07		1/01/08- 3/31/08		4/01/08- 6/30/08		7/01/08- 9/30/08		10/01/07- 09/30/08	
# cand.	% pass	# cand.	% pass	# cand.	% pass	# cand.	% pass	# cand.	% pass
682	75.37	3,031	89.21	1,850	88.05	4,097	87.33	9,660	87.22

**Includes (9), (4), (7) and (9) “re-entry” candidates*

4/1/07 Passing standard increased to -0.21 logits & revised NCLEX-RN Test Plan implemented.

The Nursing Education Consultants monitor the NCLEX results of their assigned programs. Current procedure provides that after each academic year, if there is substandard performance (below 70% pass rate for first time candidates), the NEC requests that the program director submit a report outlining the program's action plan to address this substandard performance. Should this substandard performance continue in the second academic year, an interim visit is scheduled and a written report is submitted to the Education/Licensing Committee. If there is no improvement in the next quarter, a full approval visit is scheduled within six months. A report is made to the Education /Licensing Committee following the full approval visit.

11.0 Report of the Nursing Practice Committee

S. Phillips, Chairperson

11.1 Approve/Not Approve: Revised Statement “Administration of Insulin in Schools by Unlicensed Personnel”

G. Nibbs presented this report

As a result of the successful lawsuit, this agenda item has been postponed until an official decision is rendered in the suit. The Board will post the decision on the website for interested individuals. Not action needed.

11.2 Approve/Not Approve: BRN Statement “Clinical Learning Experiences: Nursing Students”

J. Wackerly presented this report

Business and Professions Code § 2729 Services by Student Nurses, states that nursing services may be rendered by a student when these services are incidental to the course of study and the nursing student is enrolled in a board approved program. The Board of Registered Nursing is statutorily authorized to interpret, implement, and enforce the Nursing Practice Act and its regulations. The statement on “Clinical Learning Experiences Nursing Students” is proposed to clarify the authority for nursing practice provided by a student nurse.

It has come to the boards attention that their have been restrictions placed on nursing student’s ability to perform clinical functions especially those involving medication administration in acute care hospitals. This information was obtained from California acute care hospitals and California registered nursing educational programs. There has been an effort to categorize nursing students enrolled in a board approved nursing program as unlicensed assistive personnel. There were questions about whether the nursing student could access an electronic medication dispensing machine, in the processes related to administering medication to assigned patients. Questions were also raised about supervision of nursing students during the administration of medications.

MSC: Glaab/Dietz that the Board Approve BRN Statement “Clinical Learning Experiences: Nursing Students”. 7/0/0

R. Terry made a statement of correction in reference to AB2637 California Dental Association Bill that was chaptered. CRNAs are not in violation because the law gives them authority to teach the dental assistants.

12.0 Public Forum

Hermina Parks, Director of Public Health Nursing in Riverside came forward with comment.

Meeting Adjourned at 10:55 am.

Ruth Ann Terry, MPH, RN
Executive Officer

LaFrancine Tate
President

**STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
BOARD OF REGISTERED NURSING MINUTES**

DATE: October 23, 2008

TIME: 9:07 AM

LOCATION: University of Phoenix
Ontario Learning Center.
3110 E. Guasti Road, Room 111
Ontario, CA 91761
800-888-1968 (phone)

PRESENT: LaFrancine Tate, Public Member, President
Susanne Phillips, MSN, RN, APRN-BC, FNP, Vice-President
Andrea Guillen Dutton, Public Member
Nancy Beecham, RNC, BS
Janice Glaab, Public Member

NOT PRESENT: Elizabeth O. Dietz, EdD., RN, CS-NP

ALSO PRESENT: Ruth Ann Terry, MPH, RN, Executive Officer
Heidi Goodman, Assistant Executive Officer
Stacie Berumen, Enforcement Manager
Christina Sprigg, Administration Manager
Norine Marks, DCA, Legal Counsel
Doreathe Johnson, Deputy Director, Legal Affairs
Carrie Lopez, Director
Scott Reid, Chief Deputy Director
Luis Farias, Deputy Director, Communications

Thursday, October 23, 2008

1.0 CALL TO ORDER

L. Tate, Board President, called the meeting to order at 9:07 am and had the Board Members introduce themselves.

2.0 OPEN FORUM

Carrie Lopez, Director of Department of Consumer Affairs came forward to speak to attendees and Board with the following statement:

"I felt it was important for me to be here today to address the critical issue of fingerprinting. As you know, fingerprinting of licensees provides us with an important tool to identify criminal behavior that may place consumers at risk. Despite the fact that the BRN was an early proponent of fingerprinting new applicants, there's a population of licensees that have been allowed to operate under the radar of the Board. Several of those licensees have recently garnered negative attention to the Board and this attention has

detracted from the work currently being done by the board to ensure consumer protection. This is not acceptable.

The people of California expect much more from us. They deserve no less. I know you share my desire that this never happens again. We must ensure that every tool available is being utilized and consumers have confidence in the qualifications and integrity of our licensees.

Today, the BRN becomes the first of DCA's Boards or Bureaus to impose fingerprinting on all licensees, regardless of when the first became licensed. In this way, the Board and its staff will reinforce their commitment to protecting the health and safety of consumers and to promoting quality registered nursing care in California.

You will set the example that others will follow. So I want to thank you for taking the lead on this issue. And I want to reiterate that the Department is here to support you in any way we can, for this consumer protection initiative, or any consumer protection initiative you may take up in the future."

3.0 REPORT ON BOARD MEMBERS' ACTIVITIES

L. Tate presented this report

Fran Tate attended the Nursing Scholarship Foundation and reviewed applications for scholarships.

4.0 EXECUTIVE OFFICERS' REPORT ON BOARD AND DEPARTMENT ACTIVITIES

R. Terry presented this report

1.0 Board's Update: Recent Media Coverage

The mission of the Board is to protect the health and safety of consumers by promoting quality registered nursing care in the State of California. The Board continues to be committed to consumer protection by ensuring that registered nurses are safe and competent practitioners. We take this mandate very seriously.

The BRN recently received adverse media attention in a number of newspapers. The articles identified licensed RNs who were convicted of crimes that had not been reported to the Board by the courts, employers, co-workers, or other sources. These RNs were issued licenses prior to the 1990 fingerprint requirement.

The Board licenses over 360,000 Registered Nurses in California. The vast majority of RNs are safe and competent practitioners who are practicing without any criminal or disciplinary actions taken against their license. The Board receives complaints on less than 1½ percent of all nurses licensed in this state.

In 1990, the California BRN was the first state in the nation to require fingerprints for all RN applicants, including exam applicants and out-of-state RNs seeking California licensure. Since implementing the fingerprinting requirement in 1990, the Board has fingerprinted more than 562,000 applicants seeking RN licensure in California.

The Board continually strives to put in place all mechanisms that strengthen consumer protection. We employ a number of methods to learn of convictions and other acts by RNs.

For example:

- In 1993 the Legislature required the courts to report to the appropriate licensing board all convictions for anyone who holds a professional license in the state and was convicted of a crime.
- Section 800 (et seq.) of the Business and Professions Code requires insurers to report RN malpractice settlements and arbitration awards to the Board.
- The Board receives complaints on RN convictions and practice violations from the public, employers, health care providers, and other governmental health agencies. The BRN has worked diligently to make it easy for anyone to file a complaint with our office, to check the status of a license, or ask questions using the Board's public information center or Web site.
- For out-of-state RN applicants, the Board utilizes the national nurse database, Nursys, to determine that the license is current and that no disciplinary action has been taken by other RN licensing boards. Also, the Board reports all of its disciplinary actions against California RNs to the Nursys national database to inform other state nursing boards.

How the Board Has Responded

The California Board of Registered Nursing has taken a number of steps to further strengthen our enforcement program.

1. With the support of the Department of Consumer Affairs, all renewal applications now include a question about criminal convictions. Both online renewals and paper-based renewals now ask RNs: "Since your last renewal, have you been convicted of, or pled nolo contendere, to any violation of the law in this or any other U.S. state or foreign country?" This conviction question was posted online on October 8, 2008, and the question was added to the paper renewal form that was mailed on October 18, 2008.
2. The next item on today's agenda will give the Board the opportunity to: "Approve/Not Approve Proposed Emergency Regulation Amending Section 1419, Title 16, California Code of Regulations, Division 14, Article 2, Registration and Examination." The goal, should this agenda item be approved, is to develop an emergency regulation and submit the package to the Office of Administrative Law. This will give the Board the authority to retroactively fingerprint all RNs licensed prior to 1990 upon renewal. This fingerprint requirement will **not** apply to those RNs that maintain an inactive RN license or are actively serving in the military outside of the country; however, at the time of activating the RN license to a current active status the fingerprint requirement will apply.
3. The Board of Registered Nursing requested and has been given 8 new positions in the Enforcement Program that will provide the necessary infrastructure to act on all conviction information received from either the RN renewal candidate or from the criminal offender record information that will be received from the Department of Justice and the FBI.

I want to personally acknowledge the tremendous support that our Board has received from the State and Consumer Services Agency, the Department of Consumer Affairs, the nursing profession and healthcare industry. The Board has always been at the forefront of consumer protection, and we look forward to continuing our mission of public protection.

5.0 REPORT OF THE ADMINISTRATIVE COMMITTEE

L. Tate, Chairperson

5.1 Approve/Not Approved Proposed Emergency Regulation Amending Sections 1419, 1419.1, 1419.3, Title 16, California Code of Regulations, Division 14, Article 2, Registration and Examination – concerning fingerprinting and disclosure of convictions upon renewal.

The Board is proposing an emergency regulation change that requires the fingerprinting of all registered nurses who were licensed prior to the 1990 fingerprint requirement at the time of their biennial license renewal. In addition, the change will require that upon renewal, all licensees must disclose whether they have been convicted of any violation of law since they last renewed their license.

Upon the Board's approval of the proposed changes to the California Code of Regulation Sections, the Board will submit the emergency regulation package for review and approval to all the various approving offices within the Department and Agency. On November 3, 2008, the Board will send a notice to all stakeholders and interested parties announcing the emergency regulation is in process before filing with the Office of Administrative Law (OAL).

By mid-November, the Board will file the emergency regulation package to OAL and they have ten (10) working days in which to approve the emergency regulation package.

A copy of the proposed language was presented to the Board as well as the timeline for processing the emergency fingerprinting regulation package.

After review, the Board suggested an addition to the Language. Under 1419(b), second sentence, after "not previously fingerprinted..." add "by this board...".

Trisha Hunter and Hedy Dumble came forward with comments.

MSC: Phillips/Glabb that the Board approve Proposed Emergency Regulation Amending Sections 1419, 1419.1, 1419.3, Title 16, California Code of Regulations, Division 14, Article 2, Registration and Examination – concerning fingerprinting and disclosure of convictions upon renewal. 5/0/0

MSC: Phillips/Glabb that the Board approve the language for notice and hearing, regular rulemaking process, for the Proposed Emergency Regulation Amending Sections 1419, 1419.1, 1419.3, Title 16, California Code of Regulations, Division 14, Article 2, Registration and Examination – concerning fingerprinting and disclosure of convictions upon renewal. 5/0/0

MSC: Phillips/Glabb that the Board delegate staff to work with legal for changes to the Proposed Emergency Regulation Amending Sections 1419, 1419.1, 1419.3, Title 16, California Code of Regulations, Division 14, Article 2, Registration and Examination – concerning fingerprinting and disclosure of convictions upon renewal. 5/0/0

Meeting Adjourned: 10.11 am

Ruth Ann Terry M.P.H., R.N.
Ruth Ann Terry, MPH, RN
Executive Officer

LaFrancine W Tate
LaFrancine Tate
President